CALIFORNIA REDI-DATE, LLC,) AGBCA No. 2006-101-1
Appellant)
Representing the Appellant:)
Matt H. Morris, Esquire)
Law Offices)
47-040 Washington Street)
Suite 3201)
La Quinta, California 92253)
Representing the Government:)
Michael Gurwitz, Esquire)
Office of the General Counsel)
U. S. Department of Agriculture)
1400 Independence Avenue, SW)
Room 3311-South Building)
Washington, D.C. 20250)

ORDER OF THE BOARD OF CONTRACT APPEALS

January 19, 2006

Opinion for the Board by Administrative Judge POLLACK.

This appeal arises out of Contract No. 120255381, between California Redi-Date, LLC (Appellant) of Thermal, California, and the U. S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS). The appeal concerns the termination for default of Appellant's contract for packing dehydrated potatoes. AMS issued a final decision on July 14, 2005, terminating the contract. As part of that decision, the Contracting Officer (CO) stated that any costs incurred by the Government to purchase replacement product, would be charged to Appellant. Appellant filed a timely appeal.

The Board has jurisdiction over the appeal pursuant to the Contract Disputes Act of 1978, 41 U.S.C. §§ 601-613, as amended.

By letter dated December 31, 2005, counsel for Appellant wrote to counsel for AMS and advised him that the Appellant had received notice from the CO, to the effect that the Government would not seek any purchase replacement costs or other penalties against California Redi-Date.

AGBCA No. 2006-101-1

Accordingly, Appellant advised AMS counsel that California Redi-Date was formally withdrawing its Notice of Appeal and further that in regard to Contract No. 120255381, it considered its dealings with USDA at an end.

By facsimile dated January 9, 2006, AMS counsel provided the Board with the letter he received from Appellant, withdrawing the appeal.

DECISION

Appellant has written to the Government and by that letter has withdrawn its appeal. Accordingly, the Board dismisses the appeal with prejudice.

HOWARD A. POLLACK

Administrative Judge

Issued at Washington, D.C. January 19, 2006